War protesters tried on federal conspiracy charges in New York

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Four Catholic activists went on trial this week in the upstate New York town of Binghamton, the first antiwar protestors to be indicted on federal conspiracy charges since the Vietnam War era.

On St. Patrick's Day, March 17, 2003, on the eve of the Iraq war, the four entered a military recruiting center in the small town of Lansing, poured some of their own blood around the vestibule and read out a statement condemning the illegal war.

The four Ithaca-based activists, Peter DeMott, Clare Grady, Danny Burns and Teresa Grady, were arrested and in April 2004 faced charges of criminal mischief and trespassing in a state case that ended in a mistrial in Tompkins County court, with nine of 12 jurors voting to acquit. They had rejected a plea bargain that would have left them with no jail time in return for pleading guilty to a minor offense.

In response to the state's failure to convict, the federal prosecutors intervened with the conspiracy charge, which carries a six-year prison sentence and a $250,000 fine for an offense that the state considered a misdemeanor, punishable by no more than six months in jail.

While the "St. Patrick's Four" were among roughly 7,000 protesters arrested across the country in acts of civil disobedience on the eve of the war, they are the only ones thus far to be tried on federal conspiracy charges. The last such case was apparently brought in 1968 against Dr. Benjamin Spock and three others on charges of conspiring to counsel draft resistance. Spock and his codefendants were convicted, but the verdict was overturned on appeal.

This latest trial is of utmost political significance for democratic rights throughout the country, and could provide a legal precedent for the Bush administration to intensify intimidation and police crackdowns on nonviolent political dissent.

The charges in the indictment include one felony count of conspiracy to impede an officer of the United States by "force, intimidation, and threat," and three misdemeanor charges.

The determination of the government to ram through a conviction—and the complicity of US District Judge Thomas J. McAvoy, who is presiding over the trial—has emerged in the first days of the proceedings.

McAvoy handed the prosecution a key legal victory with an extraordinary ruling allowing it to change its indictment after the trial had begun. Thus, the four will be tried for using not "force, intimidation and threat" to impede a federal officer, but rather "force, intimidation or threat." This one-word change makes the prosecutors' job far easier, while exposing the frame-up character of the federal case.

During the state trial in Ithaca, the St. Patrick's Four, representing themselves, invoked the Nuremberg Principles of international law as a precedent, arguing that individuals have the right and duty to prevent crimes against humanity, superseding obedience to any government. They also argued their actions were authorized under the "defense of necessity" principle, as the harm they caused was far less than the one they were trying to prevent. Danny Burns in his closing argument put it this way:

"No jury would convict four people of breaking and entering if they broke into a burning house to try to save a child. Here, the building was on fire—as Iraq is now, and we broke in to try to save our troops and the innocent Iraqis. We did not save them, but justice says we should not be punished for trying."

For the federal trial, however, Judge McAvoy has preemptively barred the St. Patrick's Four from using a similar defense. "This court offers no opinion on the war in Iraq as it is entirely irrelevant to this matter... assuming an illegal war, it does not provide a justification for violating the criminal laws of the United States," he ruled.

This ruling amounts to a judicial gag order, stifling the

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defendants' ability to fully draw out the context of their actions as well as their appeal to the international law they argue is meant to function as the "supreme law of the land."

In the first day of testimony by the activists, McAvoy made clear his intention to squelch any effective defense, while allowing the prosecution free rein. "This case is not about the war in Iraq. It is about what happened in Ithaca, New York," McAvoy lectured the defendants. "To discuss the war and what is happening in Iraq is not permissible."

The judge found both Peter DeMott and Teresa Grady in contempt of court for mentioning that they had been subjected to a previous trial, a fact that he has ordered hidden from the jury.

DeMott was hit with a second contempt charge for refusing to answer a barrage of questions from the prosecution—described by some in the court as "McCarthy-like"—demanding that he name names of all those who may have helped to prepare the protest action.

A "Citizens' Tribunal" on Iraq is being held concurrently at a Binghamton church throughout the week, featuring former US diplomats and a British MP who resigned in protest of the war, antiwar activists, various legal experts, and antiwar Iraq veterans Jimmy Massey and Camilo Mejía.

The St. Patrick's Four spoke about their upcoming trial to a packed Binghamton University-SUNY audience of almost 400 people on Thursday, September 15.

Danny Burns, who hails originally from Binghamton, denounced the "lies" of the US government and the "fear" and complicity of Democratic politicians such as New York Senators Charles Schumer and Hillary Clinton, who have supported and justified the Iraq war.

Vietnam veteran Peter DeMott described the day of the protest, when the four poured about a pint of their own blood along the walls, cardboard cutouts, and US flag at the recruiting office in an "act of conscience" before reading a statement and kneeling in prayer. Answering right-wing critics of the action, the four said they longed for the day when the killing people "upsets as much as the sight of blood poured on the flag."

Expressing confidence in defeating the federal frameup, Teresa Grady called the prosecution's charge that they used "force, threat, and intimidation" against military recruiters absurd. She said that business continued as usual in the back offices of the center while they were there. She added that the Catholic Worker movement, to which the four are affiliated, is opposed on principle to the use of force or intimidation.

Speaking to the WSWS after the meeting, Peter DeMott said he hoped the trial would inspire similar actions and resistance, and that it would raise awareness of what he says are important but often ignored issues, such as that of US military's use of depleted uranium.

"You never see it mentioned, or very, very seldom do you see it mentioned in the mainstream media, that we are in effect conducting a nuclear war in Iraq right now, and that it's contaminating the earth, the air, the soil, the water of Iraq and it'll be contaminated for millions of years," he said.

"Our own soldiers are returning contaminated with depleted uranium and now they're fathering children that are horribly deformed because they've been contaminated with radiated material," DeMott added. "This is mind-boggling what we've done and what we're doing right now."

DeMott says the federal trial is part of an effort to "stifle dissent" and to "show the broader public that if you protest this way we're going to come down hard on you so don't even think about it."

Hundreds of people have turned out in Binghamton to demonstrate support for the St. Patrick's Four in the course of the week. While federal prosecutors expressed confidence in holding this trial in Binghamton, which has historically been one of the state's more conservative cities, they may be in for a surprise. The long-decaying city, with an unemployment rate reaching almost one quarter of the working population, has shown public signs of opposition to the war. This year the city council passed a resolution by a 5-4 margin calling for the immediate withdrawal of US troops from Iraq.

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